



Matheson

What next for sustainability in Irish Energy and Infrastructure?

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INTRODUCTION

In the wake of Ireland’s likely failure to have achieved its EU-mandated 2020 emissions reduction targets, the Irish Government has published ambitious and unprecedented policy and statutory supports for the delivery of energy and infrastructure investments that will help to decarbonise Ireland’s economy.

The first major policy support in this most recent wave of sustainability policy was the Climate Action Plan 2019 (“**CAP**”), elements of which will be given a legal footing pursuant to the Climate Action and Low Carbon Development (Amendment) Bill (the “**Bill**”), a **draft** of which was published on 23 March 2021. The Bill includes legal mechanisms to support the Irish Government’s ambitious target of a 51% reduction in emissions by 2030 against 2018 levels using a carbon-budgeting model.

Significant financial support is needed to deliver upon these ambitions. Indeed, the provision of public funding is increasingly restricted to projects that deliver upon sustainability commitments. Ireland is expected to receive €853 million from the European Union (“**EU**”) Recovery and Resilience Facility (the “**RRF**”) in 2021 and 2022 (with more funds to be allocated from 2023 depending on developments in the meantime). The EU has indicated that a significant portion of this funding must be allocated to sustainable energy and infrastructure projects. The Irish Government is currently reviewing its €116 billion National Development Plan 2018 – 2027 (“**NDP**”) and is expected to re-calibrate the NDP to prioritise spending on sustainability-focused projects.

The Irish Government has committed to putting sustainable finance at the centre of its “Ireland for Finance” strategy for the development of Ireland’s international financial services sector to 2025. The strategy includes sustainable finance as a “horizontal priority” (alongside diversity and regionalisation), meaning it is seen as a key element of every objective in the strategy. Sustainable finance includes green bonds, environmental, social and governance (ESG) and socially responsible investing (SRI) investments, sustainable infrastructure investments, climate finance, and performance bonds. Ireland is already a leader in this area, with the Government having issued its first sovereign green bond in 2018, and the Electricity Supply Board (“**ESB**”) undertaking the first Irish corporate green bond issuance in 2019.

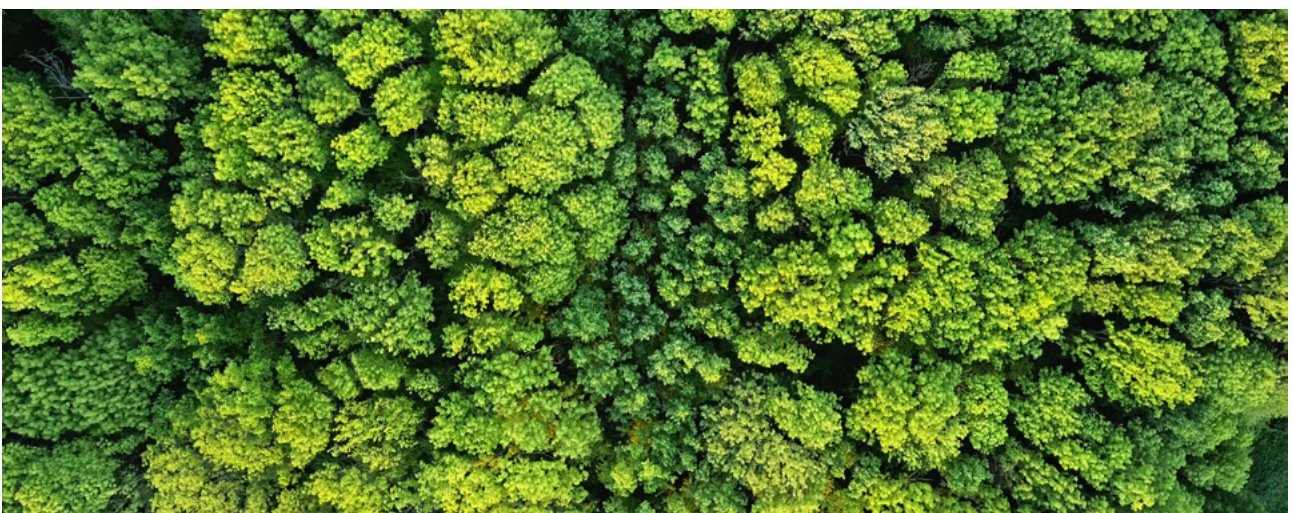
Matheson's cross-disciplinary **Projects**, **Energy** and **Infrastructure** groups are seeing significantly increased interest in sustainable projects and are already helping clients to deliver large-scale battery, solar, system services, corporate PPA, district heating, public transport and ESG bond-backed investments. Our lawyers stand out in the Irish market for their dedicated sustainable projects specialism.

H₂ HYDROGEN

Increasingly, public policy recognises the importance of exploring the potential for hydrogen to contribute to decarbonisation efforts. The CAP refers to the potential for hydrogen to become a fuel source for the Irish transportation sector, particularly medium and heavy duty trucks. The EU Green Deal supports 'green' hydrogen (ie, hydrogen produced using renewable energy) and green hydrogen investments appear likely to meet the RRF funding criteria.

Ireland, despite its lack of heavy industry, may be well placed to utilise hydrogen to support its sustainability goals in the following ways (each of which would require policy support):

- (a) **Injection into National Grid:** Natural gas supply could be partially decarbonised through the injection of hydrogen into the national gas grid (small scale UK trials on private gas networks have demonstrated the practical effectiveness of this technique and its compatibility with many modern gas-burning appliances);
- (b) **Transportation Fuel:** Green hydrogen could be used as a land transportation fuel (as mentioned in the CAP) provided that consumer-friendly infrastructure investments are made; and
- (c) **Aviation:** Ireland could pioneer investments in the use of green hydrogen in aviation, an industry sector that is particularly active in Ireland (major manufacturers are developing hydrogen aircraft and aviation fuel supply chain stakeholders such as Exolum are positioning themselves as hydrogen fuel providers).





DISTRICT HEATING

Pursuant to the CAP, the Irish Government plans to phase out fossil-fuel heating systems from public buildings and to ban the installation of oil and gas boilers from 2022 and 2025 respectively. The Irish Government sees district heating as a sustainable and efficient low-carbon heating solution for certain multi-unit residential buildings as well as larger-scale civic and commercial buildings.

The delivery of the Dublin District Heating System (to be fed by the Poolbeg Waste-to-Energy facility initially to commercial buildings in the Dublin Docklands, each of which were designed to accommodate district heating functionality) is an explicit priority action for the Irish Government under the CAP. Similarly, the implementation of campus district heating systems at third level institutions is a CAP action. District Heating is a relatively new concept in Ireland – just one project (in South Dublin County) has progressed to build phase to date and there is no current regulatory framework for this technology. We understand that the Irish Government plans to introduce a stable regulatory regime for district heating, which is already a mature and attractive investment prospect in other European countries, to encourage its growth.



PUBLIC TRANSPORT

The complementary policy frameworks of the NDP (which details specific planned projects) and the National Planning Framework (which sets out broader planning and development principles), which are often co-branded as ‘Project Ireland 2040’, emphasise the need to develop sustainable public transport infrastructure (through the ‘Sustainable Mobility’ National Strategic Outcome). For the first time, the Irish Government has committed to a 2:1 public transport to roads spending ratio, which is a remarkable departure from previous road-centric transport policy which resulted in the development of Ireland’s now comprehensive motorway network (much of which was delivered by PPP).

The most ambitious public transport projects included in Project Ireland 2040 are the new Metrolink partly underground metro-standard railway in Dublin, the BusConnects bus network overhauls (including substantial civil works) in Dublin, Cork and Galway and the DART+ programme of heavy rail electrification and rolling stock replacement in the Greater Dublin Area. A larger number of incremental and preparatory projects (including planning for new light rail lines, EV charging infrastructure, park and ride, etc) are also included in the NDP.

Delivery of these ambitious projects is behind schedule due to the pandemic. However, as part of the 2021 review of the NDP, industry stakeholders such as IBEC are calling upon the Irish Government to both accelerate delivery of supported projects and to expand the ambition of the NDP (for example to include the DART Underground interconnector tunnel). The results of this review, due in Q3 2021, will be closely scrutinised.



BATTERY STORAGE AND ZERO CARBON SYSTEM SERVICES

Ireland's grid operator, EirGrid, is an acknowledged world leader when it comes to supporting high levels of renewable generation on the Irish electricity system. It has ambitions to further increase these levels in the coming years as more and more renewable generation comes online, with a target of 70% renewable electricity on the all-island Irish system by 2030 (and this 70% target in turn requiring a system capable of operating at 95% renewable penetration).

Battery systems, along with other zero carbon technologies, are well placed to replace conventional fossil-fuel based electricity generators in providing critical 'system services' which help to stabilise Ireland's electricity grid and allow more renewable generation to be used.

Fossil fuel generators produce emissions when providing these system services, so the provision of equivalent services by zero carbon technologies may be incentivised by EirGrid in its next system services procurement (to reflect CAP policy priorities). The use of these zero carbon system services technologies at scale could make a major contribution to Ireland's decarbonisation objectives and lower electricity costs for Irish consumers.



RENEWABLE ELECTRICITY SUPPORT SCHEME

The Renewable Electricity Support Scheme ("RESS") is a new government scheme which helps to support renewable electricity projects in Ireland and will play a critical part in supporting Ireland's 2030 renewable energy targets (including, for example, the Irish Government's target of 5GW of offshore wind generation by 2030).

The first RESS auction ("RESS-1") was held last year and will support 114 renewable electricity projects in Ireland. Future RESS auctions (RESS-2, RESS-3, etc) are planned to take place on a yearly basis and we also expect a specific RESS auction to support offshore wind projects ("RESS-O"). We expect both RESS-O and RESS-2 terms and conditions to be published for consultation this year with auctions to take place thereafter.





SOLAR

Ireland's first commercial solar farms are due to come online this year, after support was finally made available for solar projects in Ireland for the first time under RESS-1.

While wind power is expected to remain the dominant source of renewable energy in Ireland for the foreseeable future, it is clear that solar power has a bright future in Ireland with just under 800 MW of solar capacity winning support in RESS-1. In addition, solar projects dominated the most recent grid connection offer process with 56 successful projects representing 1,094 MW of export capacity.

The addition of solar generation capacity in Ireland at this scale will no doubt be a positive development as it helps to diversify the renewable energy mix, in terms of both geographical distribution and source of power.



CORPORATE POWER PURCHASE AGREEMENTS

The CAP sets a target of 15% of all electricity demand in Ireland being met by renewable sources contracted under corporate power purchase agreements ("**Corporate PPAs**") by 2030. In summary, Corporate PPAs are agreements under which businesses purchase electricity directly from renewable generators (eg, wind farms).

The Sustainable Energy Authority of Ireland (SEAI) recently concluded a **consultation** on possible policy levers which may be used to help realise the potential for Corporate PPAs in Ireland. It is too early to predict what policies will result from this consultation process, but it is likely to be of great interest to renewable generators, electricity suppliers and large corporates alike.



ESG BONDS

Corporate borrowers, including renewable generators, are increasingly looking to the "ESG Bond" market to help finance their businesses. Due to increased investor demand for sustainability related and responsible investments, there is frequently talk of such bonds carrying a "*greenium*" (a premium carried by green bonds over traditional non-ESG related bonds), reducing borrowing costs for corporates that can show the funds will be used for climate action and other ESG related projects. When considering the issuance of an ESG bond, there are a number of factors that a corporate must take into account, which are discussed in further detail in our in-depth article "**ESG Bonds and Ireland's Offering**". We anticipate that ESG Bonds will become an increasingly important source of funding for future energy and infrastructure projects.

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